

§ 948.1

948.25 Approval of West Virginia abandoned mine land reclamation plan amendments.

948.26 Required abandoned mine land reclamation program/plan amendments. [Reserved]

948.30 State-Federal Cooperative Agreement.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

§ 948.1 Scope.

This part contains all rules applicable only within West Virginia that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[46 FR 5954, Jan. 21, 1981]

§ 948.10 State regulatory program approval.

The West Virginia State program, as submitted on March 3, 1980, as clarified on July 16, 1980, and as resubmitted on December 19, 1980, is conditionally approved, effective January 21, 1981. Beginning on that date and continuing until July 11, 1985, the Department of Natural Resources was deemed the regulatory authority in West Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on July 11, 1985, the Department of Energy shall be deemed the regulatory authority, pursuant to the program transfer provisions of the Enrolled Committee Substitute for House Bill 1850 as signed by the Governor of West Virginia on May 3, 1985.

Copies of the conditionally approved program, as amended, are available at:

(a) Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

(b) West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143.

[50 FR 28323, July 11, 1985, as amended at 59 FR 17931, Apr. 15, 1994]

§ 948.12 State statutory, regulatory, and proposed program amendment provisions not approved.

(a) We are not approving the following provisions of the proposed program amendment that West Virginia submitted on May 11, 1998:

30 CFR Ch. VII (7-1-00 Edition)

(1) CSR 38-2-3.14, to the extent that it could be interpreted as applying to the on-site reprocessing of abandoned coal mine waste piles or to the extent that it would apply to the removal of abandoned coal refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5.

(2) CSR 38-2-3.32.g., which concerns unanticipated events or conditions.

(3) CSR 38-2-14.14.a.1., which concerns placement of excess spoil outside the permit area.

(4) CSR 38-2-23, which concerns coal extraction as part of land development activities.

(5) CSR 38-2-24.4, which concerns water quality standards for bond release.

(b)-(d) [Reserved]

(e) Section 22A-3-23(c)(3) of the Code of West Virginia is found inconsistent with Section 519(c)(3) of SMCRA to the extent that it states: "Provided, however, That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site."

(f) Section 22A-3-12(e) of the Code of West Virginia is found inconsistent with Section 515(e) of SMCRA.

(g)-(i) [Reserved]

[48 FR 52053, Nov. 16, 1983, as amended at 50 FR 28323 and 28342, July 11, 1985; 55 FR 21337, May 23, 1990; 61 FR 6535, Feb. 21, 1996; 65 FR 26135, May 5, 2000]

§ 948.13 State statutory and regulatory provisions set aside.

(a)-(b) [Reserved]

(c) The following wording in section 22A-3-23(c)(3) of the Code of West Virginia is inconsistent with section 519(c)(3) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside:

Provided, however, That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

(d) Section 22A-3-12(e) of the Code of West Virginia is inconsistent with section 515(e) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside in its entirety.

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(e)-(f) [Reserved]

[50 FR 35084, Aug. 29, 1985, as amended at 61 FR 6535, Feb. 21, 1996]

§ 948.15 Approval of West Virginia regulatory program amendments.

The following table lists the dates that West Virginia submitted proposed amendments to OSM, the dates when OSM published final rules approving all or portions of those amendments in the

FEDERAL REGISTER, and the State statutory or regulatory citations for those amendments (or a brief description of the amendment). The amendments appear in order of the date of publication of the final rules announcing OSM's decisions on the amendments. The preambles to those final rules identify and discuss any assumptions underlying approval, any conditions placed on the approval, and any exceptions to the approval.

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
October 29, 1981	May 11, 1982	§ 10.
June 17, 1982	September 10, 1982	§ E.03 of the State's coal refuse disposal regulations.
September 14, 1982,	March 1, 1983	§§ 4D.04h; 6A.02a.6; 6B.02, .07c.2, f; 7A.02a.6; 12B.07; 15A.01; Part H concerning alternative bonding system.
October 29, 1982.		
February 16, 1983,	November 16, 1983	Technical Handbook of Standards and Specifications for Mining Operations; applicability; bond release procedures for interim program permits; incidental mining.
April 29, 1983,		
June 15, 1983,		
September 13, 1983.		
January 12, 1984	September 20, 1984	Chapter 22-4 Series—blaster certification program.
November 20, 1984 ..	April 23, 1985	Chapter 22-4 Series, § 6.01(B), 9—blaster certification program.
March 30, 1984, Oc-	July 11, 1985	Reclamation and coal refuse disposal; Transfer of program authority; permit addendum and Chapter 20, Revegetation, of the Technical Handbook for Surface Mining; permit or significant revision to a permit; the coal exploration approval document; civil penalty procedures; assessable and non-assessable violations.
tober 30, 1984, ..		
May 20, 1985, ..		
June 14, 1985.		
November 11, 1985 ..	March 20, 1986	Financial analysis and supporting documentation demonstrating sufficient money in the special reclamation fund; withdrawals from the fund; noncoal administrative expenses.
June 30, 1986, April ..	May 23, 1990	Code of Violations; Replacement of all regulations in chapter 20, Article 6, Series VII and VII-A (1985) with new set of Legislative Rules at title 38, Series 2.
26, 1986.		
June 29, 1990	October 4, 1991	CSR 38-2 §§ 2, 3, 5, 6, 9, 11 through 14, 17, 20, 22.
July 12, 1991	November 19, 1991	CSR 38-2-20.5, .6, .7.
July 30, 1993	August 16, 1995	CSR 38-2-14.1(b)(4), (g)(1)(B), (g)(8), (11), (12).
June 28, 1993	October 4, 1995,	WV Code 22-1-4 through -8; 22-2, 22-3-3, -5, -7, -8, -9, a, -11(a), (g), -12, -13, -15, -17, -18, -19, -22, -26, -28, -40; 22B-1-4 through -12; 22B-3-4; 22B-4; CSR 38-2-1.2, -2, -3.1(o), .4, .6, .7, .8, .12, .14, .15, .16, .25, .26, .27(a), .28, .29, .30, .31(a), .32, .33, .34, -4, .1(a), .2 through .12, -5.2, .4, .5, -6, .3(b), .6, .8, -8.1, -9, -11.1 through .7, -12.2, .3, .4(a), (2)(B), (c) through (e) except the words "other responsible party" at (e) are not approved. .5, -13, -14.5, .8, .11, .12, .14, .15, .17, .18, .19, -15.2, -16.2, -17, -18.3, -20.1, .2, .4 through .7, -22; 38-2C-4, -5, -8.2, -10.1, -11.1; 38-2D-4.4(b), -6.3(a), -8.7(a).
	February 21, 1996.	
April 2, 1996	July 24, 1996	CSR 38-2-4.12, -5.4(c), -12.2(e), -14.3(c), .14(e)(4), .15(m).
February 23, 1998	July 14, 1998	WV Code Sections 22B-1-7(d), 7(h); 22B-3-4. WV Regulations CSR 38-2-1.2(c)(1). Vacating of retroactive approval published on February 21, 1996.
April 28, 1997	February 9, 1999	W.Va. Code 22-3 Sections 3(u)(2)(1) (decision deferred), (2)(not approved), (3); 3(x), (y) (partial approval), (z) (partial approval); 13(b)(20), (22), (c)(3) (decision deferred); 15(h); 17(b); 18(c), (f); 28 (a-c) (not approved), (d), (e) (decision deferred), (f). WV Regulations CSR 38-2 Sections 2.4, 2.43 (not approved), 2.95 (not approved), 2.108, 2.120; 3.2.e; 3.12.a.1 (partial approval), .2 (partial approval); 3.14.b.7 & .8 deleted, .12.E, .15.B deleted, .13.B; 3.29.a (partial approval); 3.35; 5.5.c; 6.5.a; 8.2.e; 9.2.1.2; 9.3.h.1, .2; 14.11.e, .f, .g, .h; 14.15.b.6.A, .c, .d; 16.2.c (partial approval), .2, .3, .4 (partial approval for .4); 20.1.e
April 28, 1997	May 14, 1999	W.Va. Code 22-3 Section 13(c)(3) [not approved].
May 5, 1999	October 1, 1999	CSR 38-2-2.11; 2.78; 3.12.a.2, and .2.B; 3.32.b; 3.35; 14.12.a.1; 16.2.c, and .c.3; and 22.4.g.
March 25, 1999	November 12, 1999	W.Va. Code 22-1-7(a)(7); 22-3-13(a), (b)(3) and (15), (e), and (f); 22-3-13a, in 13a(g) the words "upon request" are not approved, in 13a(j)(2) the phrase "or the surface impacts of the underground mining methods" is not approved; 22-3-22a; 22-3-23(c)(3) decision is deferred; 22-3-24(c), (d), (e), and (f); 22-3-30a, in 30a(a) the phrase "of overburden and coal" is not approved, 30a(c) and (f) are not approved; and 22-3A.
May 11, 1998	May 5, 2000	West Virginia regulations at CSR 38-2-2.25; 2.102; 3.32.d.12; 14.16 through 14.19; 22.5.1; 24 (except 24.4).